United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

Vol. 130 WASHINGTON, WEDNESDAY, FEBRUARY 1, 1984 No. 8

Senate

SOVIET VIOLATIONS OF ARMS CONTROL AGREEMENTS

The PRESIDING OFFICER (Mr. TRIBLE). The Senator from Idaho is recognized.

THE HISTORY OF ARMS CONTROL TREATY VIOLATIONS

Mr. McCLURE. Mr. President, arms control treaty violations are not new. During the 1930's there was wholesale violation of existing arms control treaties:

There was violation of the Washington and London Naval Treaties by Japan and Italy.

There was German violation of the Treaty of Versailles.

There was Italian use of chemical weapons in Ethiopia.

The United States reacted to these violations the way some would have us react to the Soviet violations today—we continued to abide by the Washington and London Naval Treaties after the Japanese had publically abrogated them.

During the 1930's Winston Churchill publically challenged the British Government to admit that the Germans were violating existing treaties. It refused to for a long time.

In November 1934 in the House of Commons, Winston Churchill stated, and I quote from the words of the great statesman:

According to the Treaty of Versailles, the German Government are not allowed to build any military aircraft or organize any military air force . . . What was meant for a safeguard for the Allies has in fact become only a cloak or a mask for a potential aggressor. With any other country the facts about its air development would have been stated quite promptly . . . In fact, the League collects these figures . . . With any other country this would make no difficulty, but it is just because Germany is under this special disability. I understand how it has arisen. It has not been considered etiquette, or at any rate the Government has shrunk hitherto from stating this would make no difficulty, but it is just because the fact which they know well—I am sure they know about German rearmament, and very naturally, because, if the Foreign Secretary had said that there was this or that they were doing contrary to the Treaty, he would immediately have had to make good his statement, or perhaps stand by his statement, that he was charging a great Power with a breach of the Treaty, and I can understand that until certain disclosures which have been made on the Continent had been made, it was necessary for the Government to proceed with great caution in this respect.

But the time has come when what was meant to be a protection for others must no longer be a cloak or mask for Germany. The time has come when the mystery surrounding the German rearmament must be cleared up. We must know where we are. This House naturally in these matters leaves the main responsibility to the Executive, and that is quite right, but at the same time, it cannot divest itself of responsibility for the safety of the country, and it must satisfy itself that proper measures are being taken.

The same type of intelligence collection problems we now face were cited as reasons for not taking actions when violations were discovered. Winston Churchill ridiculed this:

I do not know how the Admiralty came to be without information that even battleships, contrary to the Treaty, were being laid down before the end of 1934. We always believed before the War that battleships could never be laid down without our knowledge. The Germans were entitled to build 10,000-ton ships according to the Treaty, but they, by a concealment which the Admiralty were utterly unable to penetrate, converted these into 26,000 ton ships.

If Sir Winston had lived to read some of the intelligence reports produced on the SS-X-25 over the last 10 months he might have smiled.

Mr. President, I ask unanimous consent that a list of Soviet SALT violations and Soviet violations of other arms control treaties be printed in the RECORD. I also ask unanimous consent that the President's Report to the Congress on Soviet Non-Compliance With Arms Control Agreements be printed in the RECORD. Finally, I ask unanimous consent that my unclassified analysis of the recent Soviet accusations of alleged U.S. SALT violations be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOVIET VIOLATIONS OF 1979 SALT II TREATY

1. SS-18 rapid reload and refire capability.
2. Covert deployment of 100 to 200 SS-16 mobile ICBMs at Plesetsk test range.
3. AS-3 Kangaroo long range Air-to-Surface Missile on 100 TU-95 Bear bombers.
4. Deployment of long range ASMs on Backfire bombers.
5. Production of 32 to 36 Backfire bombers per year.
6. Arctic deployment of Backfire bombers.
7. Almost total encryption (95 to 100%) of telemetry:
   ICBM: SS-18 Mod X, PL-4 (SS-X-24), PL-5 (SS-X-25).
   SLCM: SS-NX-19.
   SLBM: SS-NX-20.
   IRBM/ICBM: SS-20.
8. Two new type ICBMs in development testing SS-X-24, SS-X-25.
9. Increased and large scale strategic camouflage, concealment, and deception.
10. Testing of a new heavy SLBM-SS-NX-23.
11. Soviet admission of exceeding 820 and 1200 MIRV missile launcher ceilings, and 1320 MIRV/ALCM ceilings, counting those launchers and bombers under construction.
12. Soviet failure to reduce strategic nuclear delivery vehicles to 2400 and to 2250 ceilings.

SOVIET VIOLATIONS OF THE 1972 SALT I ANTI-BALLISTIC MISSILE (ABM) TREATY

1. Soviet SAM testing in ABM mode—SAM-5, SAM-10, SAM-12.
2. Deployment of 6 ABM Battle-Management radars in interior of the U.S.S.R. not facing outward—Abalakovo.
3. ABM camouflage and concealment.
4. Falsification of ABM deactivation.
5. Creation of new ABM test range without prior notification.
6. Development of a rapidly deployable, mobile ABM system.
7. Testing of a rapid refire ABM capability.
8. Deployment of a nationwide ABM defense, using 6 ABM Battle-Management radars, SAMs 5, 10, 12, and mobile ABM-3.
9. Deployment of more than 100 ABM launchers around Moscow.

SOVIET VIOLATIONS AND CIRCUMVENTIONS OF THE 1972 SALT I INTERIM AGREEMENT ON OFFENSIVE NUCLEAR WEAPONS

1. Deployment of the heavy SS-19 ICBM as the replacement for the light SS-11 ICBM.
2. Failure to deactivate old ICBMs on time, and continuous falsification of official deactivation reports.
3. Bringing back ICBM equipment to deactivated ICBM complexes.
4. Keeping 18 SS-9 ICBMs at an ICBM test range illegally operational.
5. Soviet deployment of "IIIX" silos with a configuration too similar to a missile launch silo.
6. Increased use of deliberate camouflage, concealment and deception:
   Encryption of missile telemetry.
   Camouflage of ICBM testing, production, and deployment.
   Concealment of SLBM submarine construction, berthing, dummy submarines, and construction of berthing tunnels.
7. Constructing over 68 strategic submarines, when only 62 were allowed.
8. Violation of Brezhnev's pledge not to build mobile ICBMs.
9. Deploying SS-11 ICBMs at SS-4 Medium Range Ballistic Missile (MRBM) sites for covert soft launch.
10. Keeping about 1,300 to several thousand old ICBMs stockpiled for both covert soft launch and rapid reload of silos for refire.

SOVIET VIOLATIONS OF THE 1962 KENNEDY-KHRUSHCHEV CUBA AGREEMENT

1. Soviet offensive capabilities deployed to Cuba:
   Combat Brigade.
   Golf and Echo Class nuclear missile-equipped submarines.
   Cienfuegos strategic submarine base with nuclear warhead storage facility.
   Nuclear delivery—capable aircraft: MIG 23/27, Floggers Bear TU-95 D, F, with operable bombbays.
   Military communications center.
2. Use of Cuba as a revolutionary base to export subversion and aggression.
   Training terrorist and revolutionary forces.
   Equipment supply to revolutionary forces.
   DGI 4th largest intelligence service in world.
3. Probably biological and Chemical Warfare facility.

SOVIET VIOLATIONS OF THE 1974 THRESHOLD NUCLEAR WEAPONS TEST BAN TREATY (TTBT)

Over 15 Soviet underground nuclear weapons tests with estimated yield over the 150 kiloton threshold limit. Some of these tests were at over 300 kilotons, and we have 95% confidence that they were violations. Over 50 Soviet treaty violations since 1917, mostly of non-aggression pacts, according to 1962 Defense Department book entitled, "Soviet Treaty Violations," an official U.S. Government source.

SOVIET VIOLATIONS OF THE 1925 CHEMICAL WARFARE PROTOCOL: SOUTHEAST ASIA, SOUTHWEST ASIA

Soviet violations of the 1972 Biological Warfare Convention: Southeast Asia, Southwest Asia, Sverdlovsk 1979 explosion, 8 facilities expanded, Cuba BW/CW facility, International terrorists with BW/CW capabilities.

Over 30 unambiguous Soviet ventings of nuclear debris outside the borders of the USSR, in violation of the 1963 Limited Test Ban Treaty.

Over 14 documented cases of Soviet SALT negotiating deception, 120 cases of forgeries, active measures, propaganda campaigns.

THE PRESIDENT'S REPORT TO THE CONGRESS ON SOVIET NONCOMPLIANCE WITH ARMS CONTROL AGREEMENTS

The following is the text of a message to the Congress transmitting the President's Report on Soviet Noncompliance with Arms Control Agreements as required by the FY 1984 Arms Control and Disarmament Act:

To the Congress of the United States:

If the concept of arms control is to have meaning and credibility as a contribution to global or regional stability, it is essential that all parties to agreements comply with them. Because I seek genuine arms control, I am committed to ensuring that existing agreements are observed. In 1982 increasing concerns about Soviet noncompliance with arms control agreements led me to establish a senior group within the Administration to examine verification and compliance issues.

For its part the Congress, in the FY 1984 Arms Control and Disarmament Act, asked me to report to it on compliance. I am herewith enclosing a Report to the Congress on Soviet Noncompliance with Arms Control Agreements.

After a careful review of many months, and numerous diplomatic exchanges with the Soviet Union, the Administration has determined that with regard to seven initial issues analyzed, violations and probable violations have occurred with respect to a number of Soviet legal obligations and political commitments in the arms control field.

The United States Government has determined that the Soviet Union is violating the Geneva Protocol on Chemical Weapons, the Biological Weapons Convention, the Helsinki Final Act, and two provisions of SALT II: telemetry encryption and a rule concerning ICBM modernization. In addition, we have determined that the Soviet Union has almost certainly violated the ABM Treaty, probably violated the SALT II limit on new types, probably violated the SS-16 deployment prohibition of SALT II, and is likely to have violated the nuclear testing yield limit of the Threshold Test Ban Treaty.

Soviet noncompliance is a serious matter. It calls into question important security benefits from arms control, and could create new security risks. It undermines the confidence essential to an effective arms control process in the future. It increases doubts about the reliability of the U.S.S.R. as a negotiating partner, and thus damages the chances for establishing a more constructive U.S.-Soviet relationship.

The United States will continue to press its compliance concerns with the Soviet Union through diplomatic channels, and insist upon explanations, clarifications, and corrective actions. At the same time, the United States is continuing to carry out its own obligations and commitments under relevant agreements. For the future, the United States is seeking to negotiate new arms control agreements that reduce the risk of war, enhance the security of the United States and its Allies, and contain effective verification and compliance provisions.

We should recognize, however, that ensuring compliance with arms control agreements remains a serious problem. Better verification and compliance provisions and better treaty drafting will help, and we are working toward this in ongoing negotiations. It is fundamentally important, however, that the Soviets take a constructive attitude toward compliance.

The Executive and Legislative branches of our government have long had a shared interest in supporting the arms control process.

Finding effective ways to ensure compliance is central to that process. I look forward to continued close cooperation with the Congress as we seek to move forward in negotiating genuine and enduring arms control agreements.

Sincerely,

RONALD REAGAN.

The Fact Sheet provided to the Congress with the classified report is quoted below:

FACTSHEET

The President's Report to the Congress on Soviet Noncompliance with Arms Control Agreements

Commitment to genuine arms control requires that all parties comply with agreements. Over the last several years the U.S.S.R. has taken a number of actions that have prompted renewed concern about an expanding pattern of Soviet violations or possible violations of arms control agreements. Because of the critical importance of compliance with arms control agreements, about one year ago the President established an interagency Arms Control Verification Committee, chaired by his Assistant for National Security Affairs, to address verification and compliance issues. In addition, many members of Congress expressed their serious concerns, and the Congress mandated in the FY 84 Arms Control and Disarmament Act Authorization that "The President shall prepare and transmit to the Congress a report of the compliance or noncompliance of the Soviet Union with existing arms control agreements to which the Soviet union is a Party."

The President's Report to Congress covers seven different matters of serious concern regarding Soviet compliance: chemical, biological, and toxin weapons, the notification of military exercises, a large new Soviet radar being deployed in the Soviet interior, encryption of data needed to verify arms control provisions, the testing of a second new intercontinental ballistic missile (ICBM), the deployment status of an existing Soviet ICBM, and the yields of underground nuclear tests. Additional issues of concern are under active study.

Soviet violations of arms control agreements could create new security risks. Such violations deprive us of the security benefits of arms control directly because of the military consequences of known violations, and indirectly by inducing suspicion about the existence of undetected violations that might have additional military consequences.

We have discussed with the Soviets all of the activities covered in the report, but the Soviets have not been willing to meet our basic concerns which we raised in the Standing Consultative Commission in Geneva and in several diplomatic demarches. Nor have they met our requests to cease these activities. We will continue to pursue these issues.

THE FINDINGS

The Report examines the evidence concerning Soviet compliance with: the 1972 Biological Weapons Convention (BWC) and the 1925 Geneva Protocol and customary international law, the 1975 Helsinki Final Act, the 1972 ABM Treaty, the unratified SALT II Treaty, and the unratified Threshold Test Ban Treaty (TTBT) signed in 1974. Preparation of the Report entailed a comprehensive review of the legal obligations, political commitments under existing arms control agreements, and documented interpretations of specific obligations, analyses of all the evidence available on applicable Soviet actions, and a review of the diplomatic exchanges on compliance issues between the U.S. and the Soviet Union.

The findings for the seven issues covered in the Report, as reviewed in terms of the agreements involved, are as follows:

1. Chemical, Biological, and Toxin Weapons.

Treaty Status: The 1972 Biological and Toxin Weapons Convention (the BWC) and the 1925 Geneva Protocol are multilateral treaties to which both the U.S. and U.S.S.R. are parties. Soviet actions not in accord with these treaties and customary international law relating to the 1925 Geneva Protocol are violations of legal obligations.

Obligations: The BWC bans the development, production, stockpiling or possession, and transfer of: microbial or other biological agents or toxins except for a small quantity for prophylactic, protective or other peaceful purposes. It also bans weapons, equipment and means of delivery of agents or toxins. The 1925 Geneva Protocol and related rules of customary international law prohibit the first use in war of asphyxiating, poisonous or other gases and of all analogous liquids, materials or devices; and prohibits use of bacteriological methods of warfare.

Issues: The study addressed whether the Soviets are in violation of provisions that ban the development, production, transfer, possession and use of biological and toxin weapons.

Finding: The Soviets, by maintaining an offensive biological warfare program and capabilities and through their involvement in the production, transfer and use of toxins and other lethal chemical warfare agents that have been used in Laos, Kampuchea and Afghanistan, have repeatedly violated their legal obligations under the BWC and customary international law as codified in the 1925 Geneva Protocol.

2. Helsinki Final Act—Notification of Military Exercises.

Legal Status: The Final Act of the Conference on Security and Cooperation in Europe was signed in Helsinki in 1975. This document represents a political commitment and was signed by the United States and the Soviet Union, along with many other states. Soviet actions not in accord with that document are violations of their political commitment.

Obligation: All signatory states of the Helsinki Final Act are committed to give prior notification of, and other details concerning, major military manuevers, defined as those involving more than 25,000 ground troops.

Issues: The study examined whether notification of the Soviet military exercise Zapad-81, which occurred on September 4-12, 1981, was inadequate and therefore a violation of their political commitment.

Finding: With respect to the Helsinki Final Act, the U.S.S.R. by its inadequate notification of the Zapad-81 military exercise, violated its political commitment under this Act to observe the Confidence-Building Measure requiring appropriate prior notification of certain military exercises.

3. ABM Treaty—Krasnoyarsk Radar.

Treaty Status: The 1972 ABM Treaty and its subsequent Protocol ban deployment of ABM systems except that each party can deploy one ABM system around the national capital or at a single ICBM deployment area. The ABM Treaty is in force and is of indefinite duration. Soviet actions not in accord with the ABM Treaty are therefore a violation of a legal obligation.

Obligation: In an effort to preclude a territorial ABM defense, the Treaty limited the deployment of ballistic missile early warning radars, including large phased-array radars used for that purpose, to locations along the national periphery of each party and required that they be oriented outward. The Treaty permits deployment (without regard to location or orientation) of large phased-array radars for purposes of tracking objects in outer space or for use as national technical means of verification of compliance with arms control agreements.

Issue: The study examined the evidence on whether the Soviet deployment of a large phased-array radar near Krasnoyarsk in central Siberia is in violation of the legal obligation to limit the location and orientation of such radars.

Finding: The new radar under construction at Krasnoyarsk almost certainly constitutes a violation of legal obligations under the Anti-Ballistic Missile Treaty of 1972 in that in its associated siting, orientation, and capability, it is prohibited by this Treaty.

SALT II

Treaty Status: SALT II was signed in June 1979. It has not been ratified. In 1981 the United States made clear its intention not to ratify the Treaty. Prior to 1981 both nations were obligated under international law not to take actions which would "defeat the object and purpose" of the signed but unratified Treaty; such Soviet actions before 1981 are violations of legal obligations. Since 1981 the U.S. has observed a political commitment to refrain from actions that undercut SALT II as long as the Soviet Union does likewise. The Soviets have told us they would abide by these provisions also. Soviet actions contrary to SALT II after 1981 are therefore violations of their political commitment.

Three SALT II concerns are addressed: encryption, SS-X-25, and SS-16.

4. Encryption—Impeding Verification.

Obligation: The provisions of SALT II ban deliberate concealment measures that impede verification by national technical means. The agreement permits each party to use various methods of transmitting telemetric information during testing, including encryption, but bans deliberate denial of telemetry, such as through encryption, whenever such denial impedes verification.

Issue: The study examined the evidence whether the Soviets have engaged in encryption of missile test telemetry (radio signals) so as to impede verification.

Finding: Soviet encryption practices constitute a violation of a legal obligation prior to 1981 and a violation of their political commitment subsequent to 1981. The nature and extent of encryption of telemetry on new ballistic missiles is an example of deliberate impeding of verification of compliance in violation of this Soviet political commitment.

5. SS-X—2nd New Type, RV Weight to Throw-weight Ratio, Encryption

Obligation: In an attempt to constrain the modernization and the proliferation of new, more capable types of ICBMs, the provisions of SALT II permit each side to "flight test and deploy" just one new type of "light" ICBM. A new type is defined as one that differs from an existing type by more than 5 percent in length, largest diameter, launch-weight and throw-weight or differs in numbers of stages or propellant type. In addition, it was agreed that no single reentry vehicle ICBM of an existing type with a post-boost vehicle would be flight-tested or deployed whose reentry vehicle weight is less than 50 percent of the throw-weight of that ICBM. This latter provision was intended to prohibit the possibility that single warhead ICBMs could quickly be converted to MIRVed systems.

Issue: The study examined the evidence: whether the Soviets have tested a second new type of ICBM (the SS-S-25) which is prohibited (the Soviets have declared the SS-X-24 to be their allowed one new type ICBM); whether the reentry vehicle (RV) on that missile, if it is not a new type, is in compliance with the provision that for existing types of single RV missiles, the weight of the RV be equal to at least 50 percent of total throw-weight; and whether encryption of its tests impedes verification.

Finding: While the evidence is somewhat ambiguous, the SS-X-25 is a probable violation of the Soviets' political commitment to observe the SALT II provision limiting each party to one new type of ICBM. Furthermore, even if we were to accept the Soviet argument that the SS-X-25 is not a prohibited new type of ICBM, based on the one test for which data are available, it would be a violation of their political commitment to observe the SALT II provision which prohibits (for existing types of single reentry vehicle ICBMs) the testing of such an ICBM with a reentry vehicle whose weight is less than 50 percent of the throw-weight of that ICBM. Encryption on this missile is illustra-

tive of the impeding of verification problem cited earlier.

6. SS-16 ICBM—Banned Deployment.

Obligation: The Soviet Union agreed in SALT II not to produce, test or deploy ICBMs of the SS-16 type and, in particular, not to produce the SS-16 third stage, the reentry vehicle of that missile.

Issue: The study examined the evidence whether the Soviets have deployed the SS-16 ICBM in spite of the ban on its deployment.

Finding: While the evidence is somewhat ambiguous and we cannot reach a definitive conclusion, the available evidence indicates that the activities at Plesetsk are a probable violation of their legal obligation not to defeat the object and purpose of SALT II prior to 1981 during the period when the Treaty was pending ratification, and a probable violation of a political commitment subsequent to 1981.

7. TTBT—150 kt Test Limit

Treaty Status: The Threshold Test Ban Treaty was signed in 1974. The Treaty has not been ratified but neither Party has indicated an intention not to ratify. Therefore, both Parties are subject to the obligation under international law to refrain from acts which would "defeat the object and purpose" of the TTBT. Soviet actions that would defeat the object and purpose of the TTBT are therefore violations of their obligation. The U.S. is seeking to negotiate improved verification measures for the Treaty. Both Parties have each separately stated they would observe the 150 kt threshold of the TTBT.

Obligation: The Treaty prohibits any underground nuclear weapon test having a yield exceeding 150 kilotons at any place under the jurisdiction or control of the Parties, beginning March 31, 1976. In view of the technical uncertainties associated with predicting the precise yield of nuclear weapons tests, the sides agreed that one or two slight unintended breaches per year would not be considered a violation.

Issue: The study examined whether the Soviets have conducted nuclear tests in excess of 150 kilotons.

Finding: While the available evidence is ambiguous, in view of ambiguities in the pattern of Soviet testing and in view of verification uncertainties, and we have been unable to reach a definitive conclusion, this evidence indicates that Soviet nuclear testing activities for a number of tests constitute a likely violation of legal obligations under the TTBT.

CONCLUSIONS

The President has said that the U.S. will continue to press compliance issues with the Soviets through confidential diplomatic channels, and to insist upon explanations, clarifications, and corrective actions. At the same time we are continuing to carry out our obligations and commitments under relevant agreements. We should recognize, however, that ensuring compliance with arms control agreements remains a serious problem. Improved verification and compliance provisions and better treaty drafting will help, and we are working toward this in ongoing negotiations. It is fundamentally important, however, that the Soviets take a constructive attitude toward compliance.

ANALYSIS OF SOVIET ACCUSATIONS OF U.S. SALT VIOLATIONS

A. SUMMARY

On January 30, 1984, the Soviet Union published in Izvestia an Aide Memoire which two days earlier had been delivered to the United States State Department. The Soviet note was entitled: The United States Is Violating Its International Commitments.

The Soviets charged the U.S. with at least 20 SALT and other arms control treaty violations. Most of these Soviet accusations had previously been conclusively disproven by the U.S. in the Standing Consultative Commission and in diplomatic channels.

The U.S., in contrast, has formally accused the Soviets of only seven SALT and other arms control treaty violations.

But none of the Soviet charges against the U.S. stand up even upon cursory examination. Moreover, the U.S. has furnished the Soviet side with photographs, classified data, and extensive explanations of the U.S. actions, including diminishing and even entirely suspending some of the U.S. actions questioned by the Soviets.

The U.S. charges against the Soviets, however, can be demonstrated with hard and often conclusive evidence. Soviet explanations have been incomplete, and often grossly misleading. And the Soviets have refused to stop their most flagrant SALT violations.

The U.S. State Department immediately responded to the Soviet charges by saying:

"We are disappointed with the initial Soviet response to expressed U.S. concerns regarding Soviet arms control noncompliance * * * regrettably [the USSR] has responded initially not by treating the issue seriously, but by dusting off a familiar list of spurious counter-charges. The Soviet charges of U.S. arms control violations are baseless."

It should be noted that there are Constitutional checks and balances and separations of powers which strongly militate against U.S. arms control treaty violations. The U.S. Congress, and national and world public opinion would not tolerate U.S. arms control treaty violations. Congress would instantly expose them, and funds for such violations plans would not be authorized or appropriated. We have examples of how the SALT II Treaty has already constrained U.S. strategic forces in over nine ways, even though it is an unratified treaty.

The Soviets said in their Aide Memoire:

"As to attempts of the American side to cast aspersions on the USSR's honest and responsible approach to the fulfillment of its commitments, they are untenable and can be qualified as being openly directed at worsening Soviet-American relations."

The Soviets added that:

"We are speaking about very important things and first of all about trust."

The question of "trust" in U.S.-Soviet arms control negotiations has a long and very controversial history. The Soviets have had the gall to claim frequently that the U.S. should "trust" the Soviets to comply with SALT agreements, and in the several cases, to even wrongly accuse the U.S. of a SALT violation.

Both the SALT I ABM Treaty and the SALT I Interim Agreement on Strategic Offensive Arms explicitly stated in their preambles that their purpose included the "strengthening of 'trust' between states." Dr. Kissinger also emphasized several times in May and June of 1972 that SALT I was supposed to strengthen U.S.-Soviet "trust." The Soviets themselves have also stated that trust was important in SALT:

"The SALT II agreement presupposes mutual trust and the creation of an atmosphere of good will which would promote the improvement of relations between the USSR and the United States." (emphasis added)

"Trust" was therefore an important concept in SALT. However, published analyses of Soviet negotiating deception at the Moscow Summit in May 1972, together with the massive Soviet camouflage and concealment effort since 1972, and the Soviet record of non-compliance with important provisions of SALT I and SALT II, cast certain doubt on the Soviet concept of "trust" and "good faith" in the SALT negotiations.

In fact, the Carter Administration was ambivalent about trust in SALT. In the State Department SALT Compliance White Paper released in 1978, the Carter Administration contradicted itself on the issue of "trust." On page 8 the document stated:

"* * * confidence and trust * * * are important to mutual efforts to establish and maintain strategic arms limitations."

Five pages later the same document stated:

"* * * The United States does not rely on trust, on Soviet intentions * * * in assessing whether verification of SALT agreement is adequate."

Probably because the Carter Administration did not want to admit the fact that there was substantial evidence of Soviet deception and bad faith in SALT negotiating and compliance, the preamble to the SALT II Treaty contained absolutely no reference at all to "trust." This omission is remarkable, and should raise important questions about whether "trust" is possible in arms control.

It should be noted that the USSR has definitely accused the U.S. of deliberate concealment which interferes with Soviet National Technical Means of SALT verification. This is tantamount to a Soviet charge of U.S. SALT violation. In contrast, the Soviets have engaged in a constantly expanding pattern of camouflage, concealment and deception (CCD) since SALT I was signed in 1972. The Soviet concealment program is huge and deliberately impedes U.S. verification. Thus it is a fact that the Soviets have accused the U.S. of a camouflage and concealment violation, when the U.S. has demurred from similarly accusing the Soviets. Nevertheless, it is the Soviets which have a continuously expanding and large-scale pattern of CCD.

In fact, there are over 40 Soviet SALT and other arms control treaty violations, compared to only 20 alledged U.S. violations, as claimed by the Soviets. But the Soviets have also violated virtually every treaty they have signed since 1917, over 50, according to official U.S. government sources.

B. THE SOVIET CHARGES AND U.S. RESPONSES

1. Soviet charge: The U.S. is aiming at "achieving military superiority" in violation of the 1972 Agreement on the Basic Principles of U.S. Soviet Relations, which calls for "equality, equal security, and no unilateral advantages." This Agreement is mentioned in the Preamble to the SALT II Treaty.

U.S. response: State Department reply: "The U.S. does not seek military superiority over the USSR." The U.S. seeks "equal levels of forces on both sides," consistent with the Jackson amendment to SALT I.

2. Soviet charge: "U.S. has disorganized the process of limiting armaments," by failing to continue negotiations on a Comprehensive Nuclear Test Ban Treaty, an Indian Ocean Demilitarization Treaty, and an Antisatellite weapons treaty.

U.S. response: The U.S. has suspended negotiations on a Comprehensive Nuclear Weapons Test Ban Treaty pending Soviet agreement to effective verification procedures on the unratified Thresh-hold Test Ban Treaty in effect on both sides. The U.S.-Soviet negotiations on armaments in the Indian Ocean were not resumed by the U.S. because the Iranian Hostage Crisis demonstrated the U.S. need to deploy forces in the Indian Ocean. The U.S. did not resume Anti-Satellite weapons Treaty negotiations because the U.S. is still trying to devise a proposal that would be effectively verifiable.

3. Soviet charge: "The U.S. did not fulfill the [SALT II] provision concerning the working out of mutually acceptable solutions in respect of a certain category of strategic arms, * * * long-range sea- and land-based cruise missiles."

U.S. response: "The only provision of SALT II which would have applied to LRINF systems was contained in its Protocol. This limited deployment until December 31, 1981, of cruise missiles capable of a range in excess of 600 kilometers on sea-based or on land-based launchers. That provision would have expired in 1981, however, even if SALT II had been ratified. Moreover, "In signing SALT II, the U.S. stated explicitly that any future limitations on U.S. systems principally designed for theatre missions would have to be accompanied by appropriate limits on Soviet theater systems like the SS-20."

4. Soviet charge: "The American side violated the provisions of the SALT II treaty prohibiting circumvention of the Treaty through any other state or states."

U.S. response: "The U.S. made clear to the Soviets during the SALT II negotiations, and subsequently stated publicly following signature of the Treaty, that the SALT II noncircumvention provision would not alter existing patterns of cooperation with our allies or preclude transfer of systems and weapons technology." Thus the U.S. explicitly preserved the right to legally deploy Euromissiles in NATO upon NATO request.

5. Soviet charge: "The U.S. has introduced the practice of using shelters over ICBM launchers * * * for a long time, the American side refrained from stopping the use of shelters. As it transpired later, this was done to conceal work to refit these launchers. Since the thus refitted launchers of the 'Minuteman II' missiles do not differ in practical terms from the launchers of the 'Minuteman III' missiles, it can be conjectured that it is MIRVed 'Minuteman III' missiles that are really deployed in those silos. If that is so, the outright and arrogant failure of the U.S. to observe the provisions of the interim agreement on verification means at the same time also failure to honor one of the main commitments under the SALT II Treaty on limiting the number of intercontinental ballistic missiles armed with multiple independently targeted reentry vehicles."

U.S. Response: "During initial Minuteman construction, as well as the Minuteman silo upgrade program during the mid-70's environmental shelters were employed to protect construction at the launchers from the weather. The facts concerning the activities being carried out at the launchers were provided and explained in full detail to the Soviets, and were also available in the public domain. In response to Soviet expressions of concern, the shelters were modified, and their use was discontinued after the completion of the Minuteman silo upgrade program in early 1979.

In the case of the Titan II silo, a cover was used to protect it from the weather during repair work on damage due to an accident. It was specifically designed to avoid any impediment to NTM, and was removed promptly after the need for it ended. The Soviets have been fully aware of these facts for several years.

The Minuteman II silos were not converted to Minuteman III launchers. The Soviets have been informed that any launchers of Minuteman II ICBMs converted to launchers of Minuteman III ICBMs would be made distinguishable on the basis of externally observable design features, as required by the SALT II Treaty. In the course of the SALT II negotiations the U.S. had 550 Minuteman III ICBMs, as is well known."

In fact, the only U.S. missile which would

fit into the Minuteman II silo is the Minuteman III. The U.S. Titan II would clearly not fit. The Soviets knew this. They also know that the U.S. had no new missile under flight-testing in the 1970's which could fit into Minuteman silos. The Soviets also know that there were only about 100 Minuteman III MIRVED ICBMs which could have been retrofitted into Minuteman II* silos. While the Soviets also know that the U.S. Congress authorized the deployment of 50 to 100 Minuteman III ICBMs into Minuteman II silos in FY 1981 and FY 1982, such deployment did not occur, because funds were not appropriated or reprogramed.

6. Soviet charge: The U.S. intends "to create two types of intercontinental ballistic missiles—the MX and the 'Midgetman'." This "does not accord with the tasks of limiting strategic arms that have found reflection in attained agreements."

The U.S. State Department response stated:

"Under the provisions of the SALT II Treaty the Parties undertake not to flight-test or deploy more than one new type ICBM per side; the Treaty does not prohibit research and development prior to flight-testing. The U.S. has declared the MX Peacekeeper to be its one allowed new type ICBM. The planned new U.S. small ICBM is still on the drawing board, thus, it is not constrained by SALT II provisions since it will not be ready for flight-testing until after December 31, 1985, when the SALT II Treaty would have expired."

In fact, the U.S. "Midgetman" ICBM will not even be first flight-tested until, at the earliest, 1989, over four years after the expiration of SALT II. In contrast, the Soviet SS-X-25, a Midgetman equivalent, began flight-testing in February, 1983, well before SALT II expired.

7. Soviet charge: "Clearly in contradiction with the commitments under the [SALT I ABM] Treaty, the U.S. have deployed a big radar station on Shemya Island, the construction of which entailed the utilization of radar system elements tested for ABM purposes."

U.S. response: "There is no merit whatsoever in these charges. The Shemya Island radar in the Aleutians is for national technical means of verification."

The March 1978 Carter Administration White Paper stated further: "The U.S. side discussed this matter with the Soviets and as a result, we believe, eliminated any concern about possible inconsistency with the provisions of the ABM Treaty."

8. Soviet charge: "Contrary to the ABM Treaty commitment not to deploy systems for the antiballistic missile defense of the territory of the country and not to create a foundation for such defense, new Pave Paws' radars * * * can serve as a basis for providing radar backing for the ABM defense of the territory of the U.S."

U.S. response: "There is no merit whatsoever in these charges * * * The Pave Paws radars are [legal] Ballistic Missile Early Warning [BMEW] radars [legally] located on the periphery of national territory and oriented outward, as specifically permitted by the [ABM] Treaty."

9. Soviet charge: "shelters were used over antimissile launcher silos."

U.S. response: "The U.S. has conducted all its research activities consistent with the provisions of the ABM Treaty."

The Soviets may have been referring to the U.S. dismantling of the second U.S. ABM complex at the Malmstrom Air Force Base, under the agreed procedures of 1974. The March, 1978 Carter Administration White Paper stated on this subject: "We reviewed with the Soviet side the actions taken by the U.S. to dismantle the Malmstrom site and also showed them [the Soviets] *some photographs* of the before and after conditions there. The question was apparently resolved on the basis of that discussion." (Emphasis added.)

The Soviets have reportedly never given the U.S. photographs of their own questioned strategic systems.

10. Soviet charge: "Work is being conducted to create mobile ABM radar systems."

U.S. response: "The U.S. has conducted all its research activities consistent with the provisions of the ABM Treaty. No mobile ABM radars . . . are under development."

11. Soviet charge: "Work is being conducted to create * * * space based ABM systems."

U.S. response: "The U.S. has conducted all its research activities consistent with the provisions of the ABM Treaty * * *"

"The ABM Treaty does not prohibit research, and both sides have had research programs since the signing of the Treaty. Soviet research and development efforts in the ABM field have been continuous and more extensive than our own. Our program calls only for enhanced research in this area. The President stated in his March 23, 1983, speech that U.S. activities in this area would be consistent with U.S. treaty obligations."

In fact, current U.S. conventional ABM R & D has been greatly scaled down as a result of the ABM Treaty, for over 10 years. Moreover, it has always been designed to become operational only 10 to 20 years into the future, in order to comply fully with the ABM Treaty. Similarly, the U.S. "Star-Wars" space-based ABM defense concept is an R & D project possibly resulting in an operational system more than 20 years into the future, in full compliance with the ABM Treaty.

12. Soviet charge: "The Minuteman I ICBMs are being tested to give such missiles anti-missile capabilities."

U.S. response: "These tests were part of a research program conducted in full conformity with the ABM Treaty. The tests involved stages of the Minuteman I missile, but not the whole missile. The Minuteman I ICBM is no longer deployed by the U.S." This is confirmed by the U.S. SALT II Data Exchange Statement as early as 1979.

13. Soviet charge: "Multiple warheads are being developed for ABM missiles."

U.S. response: "The U.S. has conducted all its research activities consistent with the provisions of the ABM Treaty. No * * * MIRVed ABM interceptor missiles are under development."

14. Soviet charge: "It was exactly plans to create such a large-scale ABM system that were officially announced by the American side in March, 1983."

U.S. response: The ABM Treaty does not prohibit research, and both sides have had research programs since the signing of the Treaty. Soviet research and development efforts in the ABM field have been continuous and more extensive than our own. Our program calls only for enhanced research in this area. The President stated in his March 23, 1983, speech that U.S. activities in this area would be consistent with U.S. treaty obligations."

15. Soviet charge: "The American side systematically violates the agreed upon principle of observing the confidentiality of the discussion of questions connected with the fulfillment of commitments on the limitations of strategic arms."

U.S. response: "The U.S. continues properly to discharge its obligations and responsibilities under the Regulations of the Standing Consultative Commission. The U.S. Government is not making public the proceedings of the Commission. The appearance of stories in the press about the SCC and possible subjects under discussion there does not reflect a change in that policy."

The March 1978 Carter Administration White Paper added further: "We have discussed with the Soviets the usefulness of maintaining the privacy of our negotiations and discussions and limiting speculation in the public media on SCC proceedings, *as well as the need to keep the public adequately informed.*" (Emphasis added.)

16. Soviet charge: "According to data in the possession of the Soviet side, there have been repeated instances of the American side exceeding the imposed ceiling on the yield of the tested nuclear devices."

U.S. response: "Since the effective date of the TTBT and PNET Treaties, the U.S. has conducted no nuclear tests having yields which exceeded the 150 kiloton threshold of these treaties." This is a true statement.

17. Soviet charge: "The Soviet side has approached the U.S. also about instances of the ejection of radioactive substances beyond the national territory of the U.S. * * * a violation of the 1963 treaty * * *"

U.S. response: "Both the U.S. and USSR have encountered some difficulty in totally containing all their underground nuclear tests. The U.S., however, has had only a few problems in the past with the venting of radioactive debris from underground tests at the Nevada Test site. As more experience was gained with the containment of underground tests, venting from U.S. tests became even more rare. Over the past decade there has been only one incident of local and minor venting. The Soviets had not raised their concerns about U.S. venting with us since 1976, until the latest reference to it."

18. Soviet charge: "The U.S. is accelerating the production of toxic chemical agents of a new generation (binary ones)."

U.S. response: "The U.S. is committed to the elimination of all CW and to the conclusion of a complete, effective, and verifiable global CW ban. This commitment and U.S. efforts to promote genuine progress toward as ban in the CD negotiations are widely recognized and supported by the members of the CD and the international community. It is the USSR which must take concrete steps to convince the world that it is truly serious about CW arms control by working with the U.S. and the CD to develop effective and mutually acceptable approaches to banning CW worldwide."

19. Soviet charge: "The U.S. * * * in recent years * * * carried out a whole number of actions that brought about a drastic growth in the military danger in Europe (which) undermine the process of strengthening security in Europe, the mainstays of which were laid by the Helsinki Final Act."

U.S. response: "The United States is in compliance with all the undertakings, human rights as well as security, contained in the Helsinki Final Act. Our military activities are completely in accordance with the provisions of the Final Act.

We and our allies notify all exercises which exceed the threshold of 25,000 troops established by the Final Act, and often notify smaller-scale military maneuvers, as a voluntary effort to strengthen mutual confidence.

We regret that the Soviet Union has not always reciprocated. Not only have the Warsaw Pact nations generally declined to provide voluntary notification of any exercise which did not reach the 25,000 troop threshold, as the President's report to Congress on compliance indicated, but the Soviet Union, in a clearcut failure to comply with the Final Act, failed adequately to notify the exercise Zapad 81, which involved some 100,000 troops.

The Soviet accusation's lack of substance is demonstrated by the fact that the Soviet Union has never formally approached the U.S. concerning possible U.S. failures to comply with the security provisions of the Final Act. Only in response to U.S. concerns about Soviet compliance with arms control agreements has the Soviet Union seen fit to lodge these unsubstantiated charges."

20. Soviet charge: "Neither does the above-mentioned line tally with the commitments of the U.S. under Article 6 of the Nuclear-Nonproliferation Treaty."

U.S. response: "U.S. arms control policy is fully consistent with the NPT Article VI requirement that parties to the Treaty pursue negotiations in good faith on effective arms control measures. U.S. proposals in the START, INF, and MBFR talks, and in other fora, embody the U.S. commitment to pursuing effective arms control. The Soviets should ask themselves whether their walkout from the INF talks, and their refusal to set a date for resumption of START talks, are consistent with the NPT's obligation."

Mr. PELL. Mr. President, in connection with Soviet violations of arms control agreements, I submit for the RECORD a memorandum providing an analysis of compliance issues.

The memorandum follows:

MEMORANDUM: ANALYSIS OF COMPLIANCE ISSUES

Charge No. 1. "Repeated Violations" of the Geneva Protocol of 1925, the 1972 Biological Weapons Convention, and Related International Obligations

Issue: The Administration believes that the Soviets have violated the Geneva Protocol, the Biological Weapons Convention, and related customary international law through developing and maintaining an offensive biological warfare capability and by actually using or supplying for use chemical weapons and biological toxins in Afghanistan, Laos and Kampuchea.

Commitment: The Geneva Protocol prohibits "the use in war of asphyxiating, poisonous or other gases and of all analogous . . . material", as well as "the use of bacteriological methods of warfare." It seems indubitable that the Soviets or their allies have used chemical agents in Afghanistan, Laos and Kampuchea. But there is no definite proof that these agents have included those outlawed by the Geneva Protocol, which is understood not to cover riot-control agents such as tear gas and certain other agents used against people or the natural environment, such as herbicides.

While many experts have concluded that biological toxins and/or other lethal chemicals have probably been used in these areas, there is significantly disagreement within the scientific community on this point. A sizeable body of doubters exist who believe that Yellow Rain and other phenomena described by the Administration's sources can be explained by natural causes, or at least that such causality cannot at present be ruled out. Yet to date the Administration has not undertaken systematic studies in affected areas to rule out such alternative explanations. Furthermore, the physical evidence that has been collected thus far is sketchy. Few samples of contaminated substances have been retrieved from the environment, and the characteristics of these are such as to suggest alternative explanations. Blood and tissue samples have been obtained, but the nature of the evidence and the lack of satisfactory controls also leave open the possibility of exposure to toxic agents from other sources.

The Biological Weapons Convention obligated parties not to develop, produce, stock-

pile or acquire biological agents or toxins "of types and in quantities that have no justification for prophylactic, protective, and other peaceful purposes," and to destroy existing stocks. Aside from the possible use of biological agents in the manner described, the Administration has cited little hard evidence concerning the maintenance by the Soviets of a specifically biological (germ) or toxin stockpile. Retention of lethal or other chemical weapons is not outlawed by the Geneva Protocol as such, unless they are also used. The U.S. and our NATO allies maintain such stockpiles, and in fact have proposed to modernize them.

Aside from certain indications that the Soviets have continued to develop biological weapons, including toxins, the primary evidence of such Soviet conduct is the incident which occurred in Sverdlovsk in 1979. An epidemic of Anthrax apparently broke out in that area after an explosion or other incident in a nearby military facility. Discussions concerning a total ban on the development, production, and stockpiling of chemical agents were broken off in 1980 following revelation of the Sverdlovsk episode. The Soviets have continued to maintain that the events in Sverdlovsk resulted from food contamination by naturally-occurring Anthrax.

Discussion: Although many experts believe that toxins and/or other lethal chemicals probably were used in Laos and Kampuchea, there remains a sizeable body of doubters, who believe that so called Yellow Rain could have been a natural phenomenon, that there has been insufficient testing of food for toxins, and that physical evidence is not convincing. Even if lethal toxins and chemicals have been used, evidence of direct Soviet involvement has not been available. Nonetheless, Soviet interference with a United Nations investigation and general Soviet unwillingness to discuss the matter have led to conclude that they must be guilty.

It seems certain that the Soviets have used non-lethal and/or lethal chemical agents in Afghanistan, but there is only one bit of evidence, a contaminated gas mask bought in Kabul, to point to the use of toxins.

At present, there is no ban on the development, production or stockpiling of chemical agents. However, the Aministration has indicated that it will table a draft treaty at the Conference on Disarmament in Geneva. The Carter Administration had discussed such a ban, but broke off discussions in 1980 following the 1979 incident at Sverdlovsk, which apparently led to the death and illness of hundreds of Soviet citizens because of plumonary anthrax.

Charge No. 2—"The Soviets have violated a 1975 political commitment"

Issue: The Administration believes that the Soviets have "violated" their commitment under the 1975 Helsinki Final Act to notify participating states of major maneuvers involving more than 25,000 troops.

Commitment: Notification is required in the case of major military maneuvers exceeding a total of 25,000 troops, independently or combined with any possible air or naval components. Notification is called for when major maneuvers take place on the territory, in Europe, of a participating state, as well as, if applicable, in the adjoining sea area and air space. Notification is expected 21 days in advance or, in the case of a maneuver arranged in a shorter time, at the earliest possible opportunity. In addition, states holding major meneuvers are expected to invite outside observers. These commitments are considered voluntary and not legally binding.

Discussion: In 1981, the Soviets notified the parties, 21 days ahead of time, that they would hold an exercise called ZAPAD-81. They did not provide required information on the number of troops, on the maneuver's designation or on the types of forces engaged. The State Department protested. There have been several other instances in which the Administration believes that the Soviets should have been more open to observers and should have given better notification.

Soviet compliance has improved in 1983. In Stockholm last week, delegations were exploring ways to get improved and more extensive notification.

Charge No. 3—New Radar Under Construction Constitutes ABM Treaty Violation. Issue: The Soviet Union is building a large phased-array radar near Krasnoyarsk in central Siberia. Because such radars have arguably an intrinsic, ABM battle management capability, the question arises of whether the radar itself, regardless of its location, is a violation of the ABM treaty. Futher, even if the Krasnoyarsk radar were only intended as an early warning radar, its location and orientation do not appear to be consistent with the ABM treaty. The question is whether its location and orientation are consistent with the requirements of the 1972 ABM Treaty.

Commitment: Since the radar being built is of the large phased array type, it is governed by certain rules set forth in Articles III, IV, and VI in the ABM Treaty, as well as Agreed Statement F. These rules prohibit the deployment of such radars with five exceptions: radars at specified ABM sites, radars at ABM test ranges, radars for early warning purposes only "along the periphery of its (each nations') national territory and oriented outward," radars to track objects in outer space, and radars for national technical means of verification. These rules were established to preclude development of either a nationwide ABM defense or a point defense of area outside the two complexes allowed by the treaty (subsequently reduced to one complex in the 1974 protocol).

Discussion: At worst, this radar could provide the beginning of a system substantially broadening ABM protection of the Soviet Union, if coupled with additional radar and the necessary mobile ABM missile launcher, which would be built clandestinely and placed to protect missiles as nuclear war loomed. If used as an ABM radar when completed several years hence, it could conceivably provide radar coverage for perhaps 120 of the Soviet fleet of 1400 ICBMs.

The Soviets claim publicly that the radar is for tracking satellites and is, thus permitted.

Many critics are disturbed that the Soviets never mentioned this project, at appropriate times, such as at SCC discussions of other Soviet LPAR's, much less sought U.S. approval. They simply waited for this project to be discovered. It was not likely to be missed, since it is about the size of the U.S. Capitol.

In previous years, the Soviet Union has raised questions about U.S. phased array radars. In 1975, they questioned whether a new radar at Shemya Island, Alaska, was part of an ABM system. The U.S. said it was for national technical means, space tracking and early warning. The Soviets were apparently satisfied. In 1978, they first asked whether the new PAVE PAWS radars in California and Massachusetts were consistent with the Article VI rules on early warning radars. The U.S. is now building two new PAVE PAWS radars in Texas and Georgia, which are not exclusively oriented outward, as is required for early warning radars.

It has long been recognized that such phased array radars are invaluable for space-tracking and verification work. However, in my judgment of U.S. government analysts, this particular radar is not so located or oriented that it will be able to make any meaningful contribution to space tracking of either current Soviet space missions or space missions of other countries.

Technically, if the Soviet Union simply asserts that the Krasnoyarsk radar is not a ballistic missile detection or tracking radar, the U.S. has little recourse under the ABM treaty because of a loophole or ambiguity in the treaty. The ABM treaty contains no type rules such as those in the SALT II text. A relevant type rule would assert that any radar of a type developed or tested in an ABM or early warning role would be considered an ABM or early warning radar. Unfortunately the ABM treaty has no such type rules.

Some Administration officials have suggested that, in order to avoid future apprehension and concerns about cheating, the two sides should try to work out a common agreement in the SCC as to what will and will not be acceptable in regard to large phased-array radars.

Charge No. 4—Telemetery Encryption of Test Data Violates Legal Obligations and Political Commitments.

Issue: When the United States and the Soviet Union test missiles, information on performance is transmitted to ground monitoring stations by telemetery. This monitoring allows the side testing to know just what is happening at each stage in engineering parameters of the test up to completion or failure. In order to verify compliance, the other party tries to monitor the telemetery.

The Soviet Union has over the past decade encrypted increasingly high levels of telemetry from tests of strategic weapons systems covered by SALT II. Current test programs for the SS-X-24 and 25 ICBM programs and the SS-X-20 and 23 SLBM programs contain especially high levels of telemetery encryption.

The Administration charges that Soviet encryption before 1981, was a violation of legal obligation. Activities after 1981, when Secretary Haig declared SALT II "dead", are considered violations of political commitments. The Administration objects both to the nature and extent of encryption on new missiles.

Commitment: Article XV, Paragraph 3, of the SALT II Treaty specifies: "Each party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this treaty."

According to the Second Common Understanding: Each party is free to use various methods of transmitting telemetric information during testing, including its encryption, except that . . . neither party shall engage in deliberate denial of telemetric information, such as through the use of telemetry encryption, whenever such denial impeded verification of compliance with the provisions of the Treaty.

In SALT II, the parties agreed not to engage in deliberate denial of telemetric information, including encryption, whenever such denial would impede verification. This approach was taken to allow each side to encrypt or otherwise deny information not necessary for verification, but useful in assessing military capabilities of the weapons.

Discussion: There is little doubt among sepcialists that increasing Soviet encryption has "impeded" verification. It has contributed to uncertainties about certain characteristics of Soviet missiles. However, the United States has means other than telemetry to acquire information on tested missiles. As a result, it is questionable whether the Soviets will gain some meaningful strategic edge from encryption.

Nonetheless, encryption is extremely bothersome. If the matter is unresolved, uncertainties about compliance could compound. In addition, Soviet success in getting away with excessive encryption could encourage them in other efforts to deny information. Verification of American compliance has never been a particular problem for them, since we are an open society. Because so much less is freely available from the Soviet Union, telemetric information from tests assumes a greater importance.

Thus, even if we were to emulate them and encrypt at a high level, it would matter far less to them than to us.

So far, there is no evidence of progress in resolving this problem, although it has been discussed in the SCC. A serious weakness to U.S. complaints about Soviet encryption practices, of course, is the non-ratification of SALT II. As a result, the United States is on shaky ground insisting on full compliance, when neither side has promised to do more than "not undercut" the treaty.

This problem has particular significance since some believe that the Soviets may have based their decision to encrypt heavily upon a conclusion that the United States should pay a price for failure to ratify. Nonetheless, it might be possible to resolve this matter in the SCC, given a U.S. persistence in explaining, without risking intelligence sources and methods, the telemetry which it requires and a Soviet interest in proving its sincerity about arms control.

Charge No. 5—The Soviet SS-X-25 is a "probable violation" a Soviet political commitment to SALT II.

Issue: In October, 1982, the Soviets began testing a new, solid-fueled ICBM with multiple warheads, the SS-X-24. Under SALT II, each side is allowed to have one new MIRVed ICBM. With no more than 10 warheads and a launch-weight and throw-weight less than that of the largest "light" ICBM as of SALT II, the Soviet SS-19. The U.S. MX and Soviet SS-X-24 meet these criteria. Subsequently, the Soviets informed the U.S. that the SS-X-24 would be their allowed new type.

In February, 1983, they began testing another ICBM with a single warhead, the PL-5 or SS-X-25. The Administration fears that the SS-X-25 may be a second new type, although the evidence is "somewhat ambiguous." Accordingly, the Administration believes that the SS-X-25 is a probable violation of a "political commitment to the new types limited."

In addition, even if the SS-X-25 is not a new type, the Administration argues the Soviets would have violated a political commitment related to the ratio between warhead-weight and throw-weight of certain missile systems.

Commitment: Under Article IV, paragraph 9, of SALT II, "Each party undertakes not to flight-test or deploy new types of ICBM's, that is, types of ICBMs not flight-tested as of May 1, 1979, except that each party may flight-test and deploy one new type of light ICBM." In the Third Agreed Statement under Paragraph 10, Article IV, each Party agreed "not to flight-test or deploy ICBMs equipped with a single reentry vehicle and with an appropriate device for targeting a reentry vehicle, of a type flight-tested as of May 1, 1979, with a reentry vehicle the weight of which is less than fifty percent of the throw-weight of that ICBM."

Discussion: The Soviets claim that the SS-X-25 is an allowed modification of the SS-13. Under SALT II, changes in length, diameter, throw-weight and launch-weight are allowed in existing missile types, so long as those changes do not exceed five percent. In effect, the prohibition is more a constraint on missile designers than it is a ban on new

missiles. Thus, even if the SS-X-25 is essentially brand new, it would be an allowed new type under SALT II, if the stated measures do not vary by more than five percent.

U.S. persistence in explaining, without risking intelligence sources and methods, the telemetry which it requires and a Soviet interest in proving its sincerity about arms control.

Even if the SS-X-25 does not violate the "new type" rule, the Administration believes a violation of political commitment has occurred since the warhead weight was measured at less than 50 percent of throw-weight on the one test for which data is available. The rule on warhead weight is intended to prevent MIRVing of a purportedly single-warhead missile.

However, partially because of encryption, there is some ambiguity about whether the RV to throw-weight ratio of an operational SS-X-25 might, in fact, be over 50 percent.

The issue is very complex, and analysts remain uncertain about whether the U.S. and U.S.S.R. even agree on the definition of such terms as throw weight and launch weight.

Because the SALT II protocol has expired, there is no longer a prohibition on the deployment of mobile missiles. As a single-warhead missile, the SS-X-25 could be deployed as a mobile missile and as an addition to present Soviet forces. This is the first such weapon that legitimately falls into that category (as opposed to the SS-16). Ironically, it was the Soviets, not the U.S. which wanted the Protocol extended because of its controls on cruise missiles. In the end, if the SS-X-25 becomes a significant issue, it will be not only because of possible treaty violations, but also because Soviets will have outpaced the U.S. substantially in the deployment of mobile ICBMs. This situation could arise because the constraints on the deployment of mobile ICBMs will have lapsed because SALT II was first left unratified, then repudiated by the Administration.

The United States intends to deploy its own single-warhead missile, but it may be years behind the Soviets in moving in that direction. Such actions by both sides would be more stabilizing if such weapons replace more threatening weapons as part of a reductions process. The reverse could be true if new weapons were simply additions to already threatening arsenals.

Charge No. 6—"Probable Violation" of Ban on SS-16 Missiles

Issue: The Soviets have had a number of SS-16 mobile missiles at their Plesetsk test range since before SALT II was signed. The Administration reports it cannot reach a "definitive conclusion" on whether some SS-16s could be considered deployed. On the basis of "somewhat ambiguous" evidence, the Administration concludes that there is a "probable violation" of a legal obligation before 1981 and of a political commitment after that. The issue is whether a significant number of SS-16s could be mated with mobile launchers and other equipment in a short time be operational and pose a threat to the United States at a time of nuclear crisis. In terms of the SALT II text, the issue is whether SS-16 related activities at Plesetsk constitute deployment.

Commitment: According to the Common Understanding under Paragraph 8 of Article 4 of SALT II, the Soviets pledge that they will not "produce, test, or deploy" SS-16 missiles during the term of the Treaty. There is no requirement that SS-16s already produced be dismantled. Moreover, there is no firm agreement between the sides on a satisfactory definition of "deployment", nor agreement in the the U.S. government on when the line from simple possession to deployment is crossed.

Discussion: The Soviets have given no particular evidence of interest in the SS-16 since 1979, when SALT II was signed. The missile has not been tested since well before SALT II was signed. However, the Soviets do still maintain the SS-16s and equipment that they had before SALT II. Little has apparently changed since then.

If SALT II were in force and the two sides were cooperating, it might be useful to ask the Soviets to go beyond their SALT commitment and actually dismantle SS-16s.

Charge No. 7—Soviet Activities Are "Likely Violation" of Threshold Test Ban Treaty

Background: In 1974, President Nixion agreed with the Soviets to limit underground nuclear tests to a level of 150 kilotons in the Threshold Test Ban Treaty. That accord was not sent to the Senate pending negotiation of a companion treaty to limit peaceful nuclear explosions.

The companion accord was agreed to by President Ford in 1976, and the Threshold Test Ban and Peaceful Nuclear Explosions Treaties were sent to the Senate in July, 1976. The SFRC held hearings in 1977, but did not vote upon the treaties in 1978, when it became clear that the Carter Administration attached higher priority to the negotiation of a Comprehensive Test Ban.

After review, the Reagan Administration decided in 1982 that it wanted expanded verification provisions in the two treaties and would not seek Senate consent to ratification until the Soviets agreed. The Soviets maintain that the changes of data and other steps that would occur if the treaties were ratified would suffice for verification purposes and that they will only discuss verification changes after ratification. Matters are at standoff.

Concern: While the treaties have languished, both sides have conducted vigorous testing programs ostensibly within the 150 kilotons ceiling which both sides have pledged to respect. Seismological measurements indicate that a fraction of the Soviet tests may have had yields above 150 kilotons. However, because of uncertainties in calculating yields, scientists are sharply divided over whether the results indicate clearly that the Soviets have cheated. Some believe that the Soviet testing program is consistent with a policy of adherence to the 150 kiloton ceiling. Others believe that at least several tests may have been somewhat above that level.

Adding to the confusion is continued uncertainty as to the accuracy of our measurement techniques. In recent years, some studies have shown a probable over-estimation of Soviet yields, although not enough to resolve to everyone's satisfaction questions about Soviet compliance. Thus, while charging a "likely violation" of legal obligations under the TTBT the Administration admits the evidence is ambiguous.

Commitment: Under the TTBT, the two sides obligate themselves to a testing ceiling of 150 kilotons. The two sides agreed that one or two breaches of that ceiling a year would not be considered violations. The PNET contains provisions designed to ensure that neither side uses so-called peaceful explosions to get out around the TTBT ceiling.

Discussion: The TTBT includes a protocol providing for the exchange of information on geographical boundaries and on the geology of test areas and the provision of precise coordinates of tests to help in locating the shots and assessing yields.

Data is also to be provided on a certain number of tests for calibration purposes. The PNET provides for extensive exchanges of information before and after each explosion. In addition, in instances of multiple explosions with an aggregate yield above 150 kilotons, there are provisions for on-site inspection. Some discount the value of exchanges of information under the TTBT on the theory that the Soviets would lie. For those and others, however, the more detailed and complete information called for under the PNET seems to have definite value, even if the Soviets tried to mislead.

It is arguable how much, if anything, the Soviets may have gained from any testing above the ceiling. Certainly, no breaches are likely to have been large enough to allow the Soviets any sort of testing the U.S. would not be permitted because of adherence to the treaty. The U.S. has tested adequately all of the weapons in its nuclear arsenal. Senior U.S. military leaders have testified that there is no reason to resume high-yield testing.

It is useful to recall that one of the main reasons for negotiating the 150 kiloton ceiling was to deny the Soviets the opportunity to exploit their greater ability to conduct high yield tssts. Because they have remote test areas, they would be able to test in the multi-megation range if unconstrained by the TTBT and PNET, whereas U.S. tests at the Nevada Test Site which approached a megation would pose serious threat of death, injury and structural damage in Las Vegas.

The PRESIDING OFFICER (Mrs. HAWKINS). The majority leader is recognized.

CLOSED SESSION

Mr. BAKER. Madam President, under the order previously entered, in a few moments the Senate will go into closed session. It is anticipated that shortly after we go into closed session the leadership may ask the Senate to recess so that the Members may, if they wish, receive a briefing on S. 407.

I hope that when we return we are able to get on with the crime package and particularly the amendment at hand.

I have discussed in a preliminary way certain arrangements to produce a vote on those amendments shortly after we return. We do not yet have a reply from the distinguished minority leader on his side but I hope we will be able to make an announcement or a request in that respect shortly after we return from the briefing.

I have attempted to ascertain how long the briefing might take, and it is difficult to ascertain because we do not know how many Members are going to attend or how many questions they will ask, but just for the sake of planning, I guess that we may be in the position to get back to the crime package around 3 p.m.

PRIVILEGE OF THE FLOOR

Mr. BAKER. Madam President, I ask unanimous consent that during the closed session of the Senate this afternoon, the following individuals be permitted the privilege of the floor:

SENATE SELECT COMMITTEE ON INTELLIGENCE

Robert R. Simmons, staff director.

Gary Schmitt, minority staff director.

Mike Mattingly, professional staff member.

Thomas Blau, professional staff member.

Thomas Connolly, professional staff member.

Eugene Iwanciw, professional staff member.

Ed Levine, professional staff member.

Joe Mayer, professional staff member.

Eric Newsom, professional staff member.

Angelo Codevilla, professional staff member.

Lot H. Cooke, assistant security director.

John Elliff, professional staff member.

Senator BAKER, G. C. Montgomery.

Senator BYRD, Dick D'Amato, Mike Epstein.

Senate Armed Services Committee, Doug Graham, Arnold Punaro.

Senate Foreign Relations Committee, Geryld Christianson, Carl Ford, Hans Bennendijk, Bob Bell.

Official reporter, Ron Kavulick, C. J. Reynolds, Fran Garro.

Office of the Secretary, George P. Murphy, Jr.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, it is 1 minute until 2, and I wonder if the Chair would be inclined the last of that 1 minute and place the Senate in closed session.

CLOSED SESSION

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, the Chair, pursuant to rule XXXV, now directs the Sergeant-at-Arms to clear the galleries, close all doors of the Chamber, and exclude from the Chamber and the immediate corridors all employees and officials of the Senate who under the rule are not eligible to attend the closed session and who are not sworn to secrecy.

(At 2 p.m. the doors of the Chamber were closed.)

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I see no other Senator seeking recognition in closed session. I move the Senate now return to open session.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

(Thereupon, at 3:40 p.m., the doors of the Senate Chamber were opened, and the Senate returned to legislative session.)

Mr. BAKER. Mr. President, I believe it is necessary to gain a little time for us to restore the Senate to open condition. In order to provide for that time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.